

SUBJECT: DECISION ON TERMINAL DISCLAIMERS INFORMAL FORM

DATE: 12-23-02

APPL. S.N.: 091522,117

TO EXAMINER: V. Bala subramian

ART UNIT: 1624

MOSE MONTGOMERY, ROOM 11E18

MAILROOM DATE 12-9-02

AFTER FINAL YES ✓ NO NUMBER OF T.D(S). FILED

INSTRUCTIONS: I have reviewed the submitted T.D. with the results as set forth below. If you agree, please use the appropriate form paragraphs identified by this informal memo in your next office action to notify applicant about the T.D. If you disagree with my analysis or have questions at all about the acceptability of the T.D., please see me or our Special Program Examiner. **THIS MEMO IS AN INFORMAL, INTERNAL MEMO ONLY. IT MUST NOT BE MAILED TO APPLICANT, NOR SHOULD A COPY BE LEFT IN FILE.**

☐ The T.D. is ~~PROPER~~ and has been recorded. (See 14.23).

☒ The T.D. is NOT PROPER and has not been accepted for the reason(s) checked below. (See 14.24).

[] The recording fee of \$_____ has not been submitted nor is there any pre authorization in the application file to charge to a deposit account. (See 14.26.07)

☐ Application Examiner has not processed T.D. fee. (See fee authorization).

[] The T.D. does not satisfy Rule 321(b)(3) in that the person who has signed the T.D. has not stated his/her interest (and/or the extent of the interest of the business entity represented by the signature) in the application/patent. (See 14.26 and 14.26.01).

[] The T.D. lacks the enforceable only during the common ownership clause needed to overcome a double patenting rejection, Rule 321(c). (See 14.27, 14.27.01).

[] It is directed to a particular claims(s), which is not acceptable since "the disclaimer must be of a terminal portion of the term of the entire patent to be granted". MPEP 1490. (See 14.26, 14.26.02).

[] The person who signed the terminal disclaimer:

☐ has failed to state his/her capacity to sign for the business entity. (See 14.28).

Is not recognized as an officer of the assignee, (See 14.29 and possibly 14.29.01).

[] No documentary evidence of a chain of title from the original inventor(s) to assignee has been submitted, nor is the reel and frame specified as to where such evidence is recorded in the office. 37 CFR 3.73(b). (See 1140 O.G. 72). **NOTE:** This documentary evidence or the specifying of the reel and frame may be found in the T.D. or in a separate paper submitted by applicant. (See 14.30).

[] No "statement" specifying that the evidentiary documents have been reviewed and that, to the best of the assignee's knowledge and belief the title is in the assignee seeking to take action. 37 CFR 3.73(b). (See 1140 O.G. 72) (See 14.31).

☐ The T.D. is not signed. (See 14.26, 14.26.3), or 14.26.03 if TD is not signed by all the owners.

☐ ~~Attorney not of record in oath/decl. or a separte paper filed appointing a new or associate attorney. (See 14.29.01).~~

[] The serial number of the application (or the number of the patent) which forms the basis for the double patenting is missing or incorrect. (See 14.32).

[] The serial number of this application (or the number of the patent in reexam or reissue case(s) being disclaimed is missing or incorrect. (See 14.26, 14.26.04 or 14.26.05).

[] The period disclaimed is incorrect or not specified. (See 14.27, 14.27.2 or 14.27.3)(For Samples 14.27.04 and 14.27.05)

☐ Other:

☐ Suggestion to request refund of \$ _____. (See 14.35, 14.36).

[] EXAMINER NOTE: IF APPLICATION IS IN CONDITION FOR ALLOWANCE ANY OF THE ABOVE INFORMALTIES MAY BE FAXED IN TO THE GROUP

FOR SAMPLE TERMINAL DISCLAIMERS AND CERTIFICATES:

[] Sample f a TD over a pending application and assignee Certificate (See 14.37).

Sample f a TD over a prior patent and assignee Certificate (See 14.38).

Sample Assignee Certificate under 37 CFR 3.73 (b) (See 14.39)



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PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:)

CALDWELL ET AL.)

Serial No: 09/522,117) Examiner: V. Balasubramanian

Filed: March 9, 2000) Group Art Unit: 1624

For: COMPOUNDS CAPABLE OF ACTIVATING CHOLINERGIC RECEPTORS

TERMINAL DISCLAIMER UNDER 37 CFR §1.321

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Targacept, Inc. the Owner by assignment, filed in U.S.S.N. 08/631,761 and U.S.S.N. 09/973,419, of 100% of the right, title and interest in and to the above-referenced application for Letters Patent hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term as defined in 35 USC §§154-156 and 173, as presently shortened by any terminal disclaimer, of any U.S. patent issuing from U.S.S.N. 08/631,761 and U.S.S.N. 09/973,419. The owner hereby agrees that any patent granted on the instant application shall be enforceable only for and during such period that it and U.S.S.N. 08/631,761 and U.S.S.N. 09/973,419, and any U.S. patents issuing therefrom, are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making this disclaimer, the Owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration of the full statutory term, as defined in 35 USC §§154, 156 and 173, of any patent issuing from U.S.S.N. 08/631,761 or U.S.S.N. 09/973,419, as presently shortened by any statutory disclaimer, in the event that any patent issuing from U.S.S.N. 08/631,761 or U.S.S.N. 09/973,419 might later: expire for failure to pay a maintenance fee, or be held unenforceable or be found invalid by a Court of competent jurisdiction,

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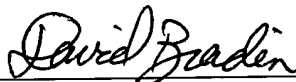
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RTP 62682v1

or be statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321, or have all claims cancelled by reexamination certificate or reissued, or be in any manner terminated prior to the expiration of the full statutory term as presently shortened by any terminal disclaimer.

The Commissioner is hereby authorized to charge Deposit Account No. **09-0528** in the amount of **\$110.00** for the required terminal disclaimer fee under 37 CFR §1.20(d). The Commissioner is authorized to charge any fee deficiencies or credit any overpayment of fees to Deposit Account No. **09-0528**. This Terminal Disclaimer under 37 CFR §1.321 is submitted in duplicate.

The undersigned is an attorney of record in the present application.

December 3, 2002



David S. Bradin, Esq.
Registration No.: 37,783

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Docket No. T103 1300.2